

Message Text

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64

ORIGIN OPIC-12

INFO OCT-01 AF-10 ISO-00 EB-11 L-03 AID-20 TRSE-00 SSO-00

/057 R

66631

DRAFTED BY:OPIC/GC:PRGILBERT

APPROVED BY:EB/IFD/OIA:MKENNEDY

OPIC/GC:C HUNT

EB/IFD/OIA:WHCOURTNEY

AF/E:BROGERS

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O 142233Z SEP 73

FM SECSTATE WASHDC

TO AMEMBASSY MOGADISCIO IMMEDIATE

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FOR HOEVELER

E.O. 11652: N/A

TAGS: EIND, SO

SUBJ: FEARN/PRODMA

REF: MOG. 1348

1. IF FULL CASH PAYMENT NOT MADE BY GSDR ON SIGNING, PROMISSORY NOTES MUST BE ISSUED BY GSDR EVIDENCING OBLIGATION FOR FUTURE PAYMENTS. OPIC AND FEARN BELIEVE FOLLOWING TERMS ARE ESSENTIAL IN PROMISSORY NOTES.

A. NOTES MUST BE NEGOTIABLE.

B. NOTES MUST BE PAYABLE IN UNITED STATES DOLLARS TO THE ORDER OF FEARN INTERNATIONAL, INC. AT THE OFFICES OF CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, 231 SOUTH LASALLE STREET, CHICAGO ILLINOIS.

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C. IF AN INSTALLMENT IS NOT PAID WHEN DUE, ENTIRE REMAINING

UNPAID AMOUNT IS ACCELERATED AND DUE IMMEDIATELY.

D. NOTES MUST BE IN THE ENGLISH LANGUAGE AND GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS.

E. OPIC AND FEARN WOULD PREFER THAT OBLIGOR EXPRESSLY WAIVE SOVEREIGN IMMUNITY FOR PURPOSES OF NOTES. IF GSDR UNWILLING WAIVE SOVEREIGN IMMUNITY, SUGGEST USE OF LANGUAGE WHEREBY GSDR RECOGNIZES THAT OBLIGATIONS UNDER NOTES ARISE OUT OF TRANSACTION WITH FEARN WHICH IS WHOLLY COMMERCIAL IN NATURE.

2. SUGGEST FOLLOWING AS TEXT FOR NOTES: THIS TEXT CONTEMPLATES SEPARATE NOTE FOR EACH INSTALLMENT.

A. FOR VALUE RECEIVED, GSDR ("OBLIGOR") HEREBY PROMISES TO PAY TO THE ORDER OF FEARN INTERNATIONAL, INC. ("PAYEE") THE PRINCIPAL SUM OF XYZ UNITED STATES DOLLARS TOGETHER WITH INTEREST THEREON AT THE RATE OF 9 3/4 PERCENT PER ANNUM FROM THE DATE HEREOF. THE ENTIRE PRINCIPAL SUM TOGETHER WITH ALL INTEREST ACCRUED THEREON SHALL BE DUE AND PAYABLE ON MARCH X, 1974.

B. THIS NOTE IS ONE OF A SERIES OF NOTES ISSUED BY THE OBLIGOR IN AN AGGREGATE PRINCIPAL AMOUNT OF ABC UNITED STATES DOLLARS UNDER AN AGREEMENT BETWEEN THE OBLIGOR AND THE PAYEE DATED AS OF SEPTEMBER Y, 1973 AND IS ENTITLED TO THE BENEFITS THEREOF.

C. PRINCIPAL AND INTEREST ARE PAYABLE IN UNITED STATES DOLLARS AT THE OFFICES OF CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, 231 SOUTH LA SALLE STREET, CHICAGO, ILLINOIS, UNITED STATES OF AMERICA OR AT SUCH OTHER PLACE AS THE HOLDER HEREOF SHALL DESIGNATE TO THE OBLIGOR IN WRITING, WITHOUT OFFSET OR DEDUCTION OF ANY KIND.

D. IN CASE A DEFAULT SHALL OCCUR AND BE CONTINUING WITH RESPECT TO MAKING ANY PAYMENT DUE UNDER THE PROMISSORY NOTES REFERRED TO IN PARA. B ABOVE, THE OUTSTANDING PRINCIPAL OF THIS PROMISSORY NOTE MAY BE DECLARED DUE AND PAYABLE AT THAT TIME. THIS NOTE LIMITED OFFICIAL USE

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MAY BE ENFORCED IN ANY COURT HAVING JURISDICTION HEREOF, AND THE OBLIGOR SHALL PAY TO THE HOLDER HEREOF ON DEMAND SUCH AMOUNT IN U.S. DOLLARS AS SHALL BE SUFFICIENT TO COVER THE ENFORCEMENT COSTS AND EXPENSES OF SUCH HOLDER INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES, EXPENSES AND DISBURSEMENTS.

E. THIS NOTE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF

ILLINOIS OF THE UNITED STATES OF AMERICA AS IF IT WERE ISSUED
AND TO BE PERFORMED ONLY THEREIN. FOR PURPOSES OF THIS NOTE
THE OBLIGOR HEREBY WAIVES ANY DEFENSE OF SOVEREIGN IMMUNITY.

3. FEARN WILL FORWARD STOCK CERTIFICATES AND PROMISSORY NOTES
TO OPIC AND OPIC WILL POUCH TO EMBASSY ASAP. SHEIKH AHMED
BY POWER OF ATTORNEY HAS FULL AUTHORITY TO ASSIGN AND TRANSFER
STOCK AND NOTES TO GSDR.

4. IF ANY OF THE ESSENTIAL POINTS REFERRED TO IN PARA. 1 APPEAR
TO CAUSE DIFFICULTY FOR GSDR, HOEVELER SHOULD LOOK TO RECENT
COMMERICAN TRANSACTIONS OF GSDR, IF ANY, FOR PRECEDENT.

DECON 9/14/74. RUSH

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